

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alison Hannah et al.

Title: METHODS OF TREATING
CANCER AND RELATED
METHODS

Appl. No.: 10/706,328

Filing Date: 11/12/2003

Examiner: James D. Anderson

Art Unit: 1614

Confirmation Number: 6441

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR
PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants have calculated PTA for the captioned patent application and have determined that the patent is entitled to 1217 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

(a) Total PTO delay: 1842 days

(b) Total Applicant delay: 625 days

Final PTA Determination under 37 CFR §1.703(f): 1217 days

In accordance with 1.705(b)(2)(ii), the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are clearly represented in the attached PTA Calculation.

The relevant dates where the applicant is not in agreement with the PTO's determination are discussed in more detail below.

The Section of the Notice of Allowance titled "Determination of Patent Term Adjustment under 35 U.S.C. §154(b)" makes the statement that:

"If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 days".

This statement is incorrect because it does not take into account accrued patent term adjustment under 37 C.F.R. §1.703(b) due to having an overall pendency of greater than three years. Under 37 C.F.R. §1.703(b) the overall Patent Term Adjustment would be 1217 days, as shown in the attached calculation.

37 C.F.R. §1.705(d) states that "Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues." As the above-identified error was made at allowance, the applicant is filing this request for reconsideration under an abundance of caution, in the knowledge that the PTO does not include patent term adjustment resulting from 1.703(b) in its PTA calculations at allowance.

In accordance with §1.705(b)(2)(iv)(A), the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 are clearly represented in the attached PTA Calculation.

Applicants therefore respectfully request that the patent be accorded 1217 days PTA.

Fees in the amount of \$200.00 set forth in 37 C.F.R. § 1.18(e) to cover the fee for this request are being paid by credit card via EFS-Web.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

Date September 10, 2010

By /Joseph P. Meara/

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4303
Facsimile: (608) 258-4258

Joseph P. Meara
Attorney for Applicant
Registration No. 44,932

[CLOSE WINDOW](#)
[All CASES](#)
 [SELECT CASE](#)
 Patent Term Adjustment Calculation System

Add a new event to this case

Docket Number: 072121-0366
 Application Number: 10/706328
 Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	11/12/2003	0		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	12/15/2003	33		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	12/22/2003	40		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	01/26/2004	75		
Edit Delete	Notice to File Missing Parts	03/17/2004	126		
Edit Delete	Response to Notice to File Missing Parts	06/01/2004	202		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	12/13/2004	397		
	14 month From Application date	01/12/2005	427		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	01/18/2005	433		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	08/12/2005	639		
Edit Delete	Non-Final Office Action	12/20/2005	769	342	
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	01/13/2006	793		
Edit Delete	Restriction Requirement	02/22/2006	833		
Edit Delete	Office Action Withdrawn	02/22/2006	833		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	03/29/2006	868		
	Restriction Requirement + 3 months	05/22/2006	922		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	06/12/2006	943		
Edit Delete	Restriction Requirement Response Received at PTO	08/17/2006	1,009	87	
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	08/17/2006	1,009		
Edit Delete	Non-Final Office Action	11/02/2006	1,086		
	3 Year Period Starts	11/12/2006	1,096		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	12/19/2006	1,133		
	Non-Final Office Action + 3 months	02/02/2007	1,178		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	03/02/2007	1,206		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	03/05/2007	1,209		
Edit Delete	Non-Final Office Action	05/18/2007	1,283		

	Non-Final Office Action + 3 months	08/18/2007	1,375		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	11/16/2007	1,465	90	
Edit Delete	IDS under 1.704(c)(8) filed at PTO	12/18/2007	1,497	32	
Edit Delete	Non-Final Office Action	02/07/2008	1,548		
	Non-Final Office Action + 3 months	05/07/2008	1,638		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	06/05/2008	1,667	29	
Edit Delete	Non-Final Office Action	08/26/2008	1,749		
	Non-Final Office Action + 3 months	11/26/2008	1,841		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	01/15/2009	1,891	50	
Edit Delete	IDS under 1.704(c)(8) filed at PTO	01/16/2009	1,892		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	04/22/2009	1,988	97	
Edit Delete	Non-Final Office Action	04/27/2009	1,993		
	Non-Final Office Action + 3 months	07/27/2009	2,084		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	08/27/2009	2,115		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	08/27/2009	2,115	31	
Edit Delete	IDS under 1.704(c)(8) filed at PTO	11/23/2009	2,203	88	
Edit Delete	Non-Final Office Action	12/04/2009	2,214		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	03/04/2010	2,304		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	03/04/2010	2,304		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	06/02/2010	2,394	90	
Edit Delete	Notice of Allowance	06/11/2010	2,403		
	Projected Patent Grant Date	12/21/2010	2,596	1500	
			Totals:	1,842	625
			PTA:		1,217

Created and maintained by

FOLEY
 FOLEY & LARDNER LLP